

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE MIGUEL DE LA CRUZ,
Plaintiff,
v.
GAVIN NEWSOM, et al.,
Defendants.

No. 1:20-cv-00997-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 14, 16)

Plaintiff Jose Miguel De La Cruz is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 10, 2020, the assigned magistrate judge screened plaintiff's first amended complaint and issued findings and recommendations, recommending that this action proceed only on plaintiff's Eighth Amendment deliberate indifference claims against defendant S. Gates and defendant Oscar Galloway and that all other claims be dismissed due to plaintiff's failure to state a cognizable claim. (Doc. No. 16 at 10.) Those findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within twenty-one (21) days after being served. (*Id.*) To date, no objections to the findings and recommendations have been filed with the court, and the time in which to do so has now passed.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
3 and recommendations to be supported by the record and by proper analysis.

4 Accordingly:

- 5 1. The findings and recommendations issued December 10, 2020 (Doc. No. 16) are
6 adopted;
- 7 2. This action shall proceed on plaintiff's claims against defendants Gates and Galloway
8 for deliberate indifference in violation of the Eighth Amendment, as alleged in the first
9 amended complaint (Doc. No. 14);
- 10 3. All other claims are dismissed from this action for failure to state a claim upon which
11 relief may be granted;
- 12 4. The Clerk of Court is directed to reflect the dismissal of defendants Gavin Newsom,
13 Ralph Diaz, and R.C. Johnson on the Court's docket, and to add defendants Oscar
14 Galloway and S. Gates; and
- 15 5. This action is referred back to the magistrate judge for proceedings consistent with this
16 order.

17 IT IS SO ORDERED.

18 Dated: February 3, 2021

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UNITED STATES DISTRICT JUDGE